Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Bowen	Analyst:	Deborah Barrett	Bill Number:	SB 860
Related Bills:	See Legislative History	Telephone:	845-4301	Introduced Date:	02-22-05
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Credit Card Processing Fees/Prohibit State Agencies Or Agents Of State Agencies From Charging Persons For Using Credit Card

SUMMARY

This bill would prevent state agencies or their agents from charging a fee for using a credit card unless the same fee is charged for using a check or cash.

PURPOSE OF THE BILL

The purpose of this bill is to prevent consumers from incurring additional costs for the convenience of using their credit cards for state services or obligations.

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2006, and operative for any payments accepted on or after that date.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Under current federal law, the Treasury is authorized to accept credit card payments for federal taxes. However, the IRS is prohibited from paying a fee or consideration to credit card companies for processing these payments.

In order to provide taxpayers the option of paying taxes by credit card, the IRS has entered into non-monetary contracts and agreements with credit card service providers. The service providers act in the capacity of merchants and are intermediaries in credit card transaction processing. The service providers validate credit card numbers and expiration dates, obtain authorization from the credit card issuers, issue confirmation numbers to the taxpayer at the end of the transaction, charge the taxpayer a convenience fee, and forward tax payments to the IRS for posting to taxpayer accounts. The convenience fee charged by service providers varies per provider and usually ranges between 1-3% of the payment amount. The IRS does not receive or charge any fees for payments.

Board Position:			Department Director	Date
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Current state law requires all state agencies to accept credit cards or other payment devices as a method of payment, unless granted a specific exemption by the Director of the Department of General Services (DGS). Exemptions are granted when state agencies can demonstrate that this requirement would result in unfunded costs to the agency, result in a shortfall of revenue to the state, or would not be cost effective to implement.

The Franchise Tax Board (FTB) accepts credit card payments under the same procedures as the IRS. Through DGS the department has a master service agreement in place with a service provider to handle the payment transaction in the same manner as the IRS. The department does not charge a fee to the taxpayer. Instead, the service provider charges the taxpayer the fee. The convenience fee is currently set by contract at 2.5% of the payment. Taxpayers are informed of the convenience fee amount before the payment is authorized.

THIS BILL

This bill would prohibit any state agency or its agents that accept credit cards or debit cards for the payment of services or obligations from imposing a processing fee or charge for the use of a credit or debit card that is not also imposed upon persons who pay for the same service or obligation by cash or check.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

LEGISLATIVE HISTORY

SB 1801 (Bowen, 2003/2004) contained similar provisions as this bill to prevent state agencies and their agents from charging a fee for the use of a credit card that they did not also charge for the use of a check or cash. SB 1801 was held in the Senate Judiciary Committee.

SB 557 (Figueroa, 2001/2002) contained similar provisions to prohibit state agencies from assessing a surcharge on credit card payments that were received through Internet based transactions. This bill was held in the Senate Appropriations Committee.

OTHER STATES' INFORMATION

The laws of the states of *Florida, Illinois, Massachusetts, Michigan, Minnesota,* and *New York* were reviewed. These states were selected due to their similarities to California's economy, business entity types, and tax laws. All of these states accept payment by credit card and use intermediaries to assist in the processing of the transactions. *Minnesota* charges a convenience fee directly to the taxpayer, then remits that fee to the service provider. The other states' arrangements parallel the arrangement used by the department.

FISCAL IMPACT

Implementation of this bill would require the department either to absorb the cost of the credit card convenience fee currently charged by the vendor and paid by the taxpayer or to eliminate the credit card payment option. Last year the department received approximately 68,000 credit card payments for approximately $62 million. Taxpayers paid approximately $1.55 million in convenience fees ($62 million x 2.5%). Based on last year's credit card transactions, under this bill the department would absorb this amount to continue the credit card program. If eliminating the convenience fee incurred by the taxpayer results in an increase in the use of the credit card payment option FTB's costs could be expected to increase anywhere from $1.55 million to $4.65 million based on the current credit card convenience fee rate.

Alternatively, if FTB were to eliminate the credit card payment option, the increased cost to the department would be approximately $40,000. This amount represents the current processing savings and float reduction for credit card use.

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ECONOMIC IMPACT

This bill would not impact the state's tax revenues.

LEGISLATIVE STAFF CONTACT

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